

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

**KOLBY DUCKETT, DAVID SCHILLING,
and DAVID HOLLOWAY,**

Plaintiffs,

v.

No. 1:19-cv-00295

**CHIEF BRIAN HICKMAN, TED ROGERS,
and THE CITY OF COLLEGEDALE,
TENNESSEE,**

Defendants.

RESPONSE TO PLAINTIFFS' MOTION TO COMPEL

Defendant Chief Brian Hickman hereby appears, by and through counsel, and files this Response to the Plaintiffs' Motion to Compel (Doc. 65) for the limited purpose of asserting and preserving any attorney/client privilege rights that may exist as to communications between Defendant Hickman and Attorney Curtis Bowe. While Defendant Hickman does not specifically oppose the Plaintiffs' Motion to Compel, Defendant Hickman is unable to take a fully developed position on the Plaintiffs' Motion as he does not know what testimony Mr. Bowe may offer or what documents or communications may be in Mr. Bowe's possession. This Defendant's position is that certain communications between he and Curtis Bowe were made in an attorney/client capacity, but Chief Hickman can neither evaluate nor agree to waive any potential privilege as to communications he has not yet been able to review.

Therefore, Chief Hickman asks this Court to either: (1) allow counsel for Chief Hickman to review for privilege, and prepare a privilege log, as to any potential production of documents or communications with or involving him to be provided by Curtis Bowe pursuant to the Plaintiffs' subpoena(s) prior of the production of the same to Plaintiffs' counsel; and/or (2) that this Court

conduct an *in camera* review of the proposed production for the presence of privileged documents, with an opportunity for Chief Hickman to be heard on issues of privilege, prior to the production of any such documents to Plaintiffs or their attorneys.

RESPECTFULLY SUBMITTED this 12th day of November, 2020.

CHIEF BRIAN HICKMAN

By: /s/ Brian R. Bibb
BENJAMIN K. LAUDERBACK, BPR No. 020855
BRIAN R. BIBB, BPR No. 031024
WATSON, ROACH, BATSON &
LAUDERBACK, P.L.C.
900 S. Gay St., Suite 1500
Knoxville, TN 37902

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U. S. mail. Parties may access this filing through the Court's electronic filing system.

Janie Parks Varnell
Bryan H. Hoss
DAVIS & HOSS, P.C.
850 Fort Wood Street
Chattanooga, Tennessee 37403

Keith Grant
Philip Aaron Wells
ROBINSON, SMITH & WELLS, PLLC
633 Chestnut Street, Suite 700
Chattanooga, TN 37450

Dated this 12th day of November, 2020.

/s/ Brian R. Bibb
BENJAMIN K. LAUDERBACK
BRIAN R. BIBB